

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF PENNSYLVANIA

<p>MICHAEL MILLER</p> <p>Petitioner,</p> <p>v.</p> <p>COUNTY OF LANCASTER, <i>et al.</i>,</p> <p>Respondents.</p>	<p>Civ. No.: 5:24-cv-05338-JFL</p> <p>Judge Joseph F. Leeson, Jr.</p>
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**PLAINTIFF’S MOTION TO STRIKE IMPROPER MATERIALS
ATTACHED TO DEFENDANT’S MOTION TO DISMISS**

AND NOW, Plaintiff Michael Miller, proceeding pro se and invoking all protections afforded to pro se litigants, respectfully moves this Court to strike the extraneous materials attached to Defendants’ Motion to Dismiss (Doc. 17, 18, 18-2), specifically judicial orders from a separate declaratory judgment action, pursuant to Rule 12(f) of the Federal Rules of Civil Procedure.

GROUND

1. **Improper Materials:** The materials Defendants rely upon were not attached to, referenced in, or relied upon in Plaintiff’s complaint and are therefore not

properly considered in ruling on a Rule 12(b)(6) motion. *See Schmidt v. Skolas*, 770 F.3d 241, 249 (3d Cir. 2014).

2. **Violation of Rule 12(b)(6) Standards:** Rule 12(b)(6) motions are confined to the allegations in the complaint, exhibits attached to the complaint, and materials subject to judicial notice. The orders attached to Defendants' Motion do not qualify as permissible materials under this standard. *See Mayer v. Belichick*, 605 F.3d 223, 230 (3d Cir. 2010).
3. **Prejudice to Plaintiff:** Allowing these extraneous materials to remain part of the record would prejudice Plaintiff and undermine the procedural safeguards guaranteed to pro se litigants. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

WHEREFORE

Plaintiff moves that this Court:

1. Strike the following materials attached to Defendants' Motion to Dismiss:
judicial orders docketed on November 20, 2024, as Doc. 18-2.
2. Decline to consider these materials or any arguments relying on them in its ruling on Defendants' Motion to Dismiss.

3. Grant Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted pro se,

/s/ Michael Miller

Michael Miller

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Dated: December 12, 2024

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL MILLER Petitioner, v. COUNTY OF LANCASTER, <i>et al.</i> , Respondents.	Civ. No.: 5:24-cv-05338-JFL Judge Joseph F. Leeson, Jr.
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ORDER

AND NOW, this ____ day of [Month], [Year], upon consideration of Plaintiff's Motion to Strike Improper Materials Attached to Defendants' Motion to Dismiss, it is hereby **ORDERED** that:

1. Defendants' extraneous materials, specifically judicial orders docketed on November 20, 2024, as Doc. 18-2, are **STRUCK** and shall not be considered in ruling on Defendants' Motion to Dismiss.
2. The Court shall not consider any arguments in Defendants' Motion to Dismiss that rely upon these improper materials.
3. The Court's consideration of Defendants' Motion to Dismiss shall be limited to the complaint, exhibits thereto, and judicially noticeable facts as required under Rule 12(b)(6).

4. Plaintiff is granted such other and further relief as the Court deems just and proper.

BY THE COURT:

Judge Joseph F. Leeson, Jr.

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served by e-filing a true and correct copy of the foregoing document to the following:

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Respectfully Submitted,

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Dated: December 12, 2024